

Amendment No. 2 to HB0466

Armstrong
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1140

House Bill No. 466*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 33-1-309, is amended by designating the existing language as subdivision (a) and adding the following as new subdivisions to be designated as follows:

(b) All instructions to service providers that the division of mental retardation services and its successors (DMRS) deem or intend to be mandatory upon such providers shall be promulgated as rules in accordance with the Uniform Administrative Procedures Act ("UAPA"), codified at Tennessee Code Annotated, Title 4, Chapter 5. This requirement shall apply to, but not be limited to, all mandatory policies adopted by the DMRS. If a federal court having jurisdiction over litigation involving DMRS specifically prohibits promulgation as rules of certain mandatory policies of the DMRS, this subdivision shall not require that those policies be promulgated as rules under the UAPA. This subdivision shall not be deemed to restrict the DMRS's ability to use the public necessity procedures of the UAPA to promulgate rules in a timely manner as required by the courts, including an initial one hundred sixty-five (165) day period and, if necessary an additional consecutive one hundred sixty-five (165) day period.

(c) All methodology utilized by the DMRS for determining entitlement to and amount of payment to service providers shall be

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adopted as rules which shall be consistent among providers providing substantially the same services.

(d) The provisions of subsections (b) - (e), inclusive, do not require that interpretive instructions or other nonmandatory guidance be promulgated as rules.

(e) At the discretion of DMRS, its policies in effect as of the effective date of this act may be promulgated as public necessity regulations, any provision of Tennessee Code Annotated, Section 4-5-209 to the contrary notwithstanding.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.